Remarks

The following numbered paragraphs are provided to respond to the similarly numbered paragraphs in the Office Action (e.g., paragraph "1" below corresponds to paragraph 1 in the Office Action.

As an initial matter, despite a statement to the contrary in the Office Action, Applicant does not believe claims 156 through 158 were ever restricted out of this case and therefore Applicant has included those claims as Previously Presented above in the claim listing. Claims 156 through 158 were never rejected and therefore Applicant requests that, in the event that the Examiner rejects the claims again, the Examiner make the next rejection non-final so that Applicant has a fiair shot at prosecuting claims 156 through 158.

2-3.   The Office Action rejected each of claims 1, 7, 8, 4, 5, 17, 154 and 155 as obvious over McIntosh in view of O'Brien. Applicant has amended claim 1 to clearly distinguish over the cited references. To this end, amended claim 1 requires that a reminder device include a processor and a reminder device memory where dosing regimen information is not stored in the reminder device memory prior to the time when the specifying information is obtained from a container memory. None of the cited references teaches or suggests a system wherein specifying information from a container is used to obtain dosing regimen information that was not initially stored in a memory associated with the processor. In this regard, the closest teaching in the cited references is in McIntosh which teaches that a reminder unit includes a Read Only Memory (ROM) in which prescription information is pre-stored for a number of commonly prescribed medications. A code reader on the side of a reminder unit reads a code number from a medication container and uses the number to access pre-stored prescription information from the ROM for the medication in the container and uses the pre-stored information to operate the reminder unit (see col. 6, lines 41-53).

In contrast to McIntosh, according to the claim 1 system, the specifying information from the container is used to identify dosing regimen information that was not previously stored in the reminder device memory. For instance, the dosing regimen information may comprise the specifying information itself or may be obtained from a remote server or the like. This distinction is extremely important as a system that relies on pre-stored regimen information is completely inflexible. To this end, if pre-stored regimen information for a medication A requires a user to consume one pill every eight hours, if a pharmacist wants to change the regimen to two pills of medication A every eight hours, it is unclear how this would be accomplished in McIntosh. It is likely that the reminder unit user would have to re-program the pre-stored information to reflect the change in prescription.

As another example, new medications are being developed all the time. If a new medication Z is made available to a pharmacist for dispensing only after a person begins using a McIntosh type device and the pharmacist dispenses medication Z to the person, regimen information for medication Z will not be stored in the memory of the McIntosh type device. Again, at best, the person would have to manually program information into the McIntosh type device in order to use the reminder unit at all.

In contrast, where regimen information is not pre-stored as in claim 1 of the present application, regimens can be readily changed or initially utilized for a new medication in a simple fashion without requiring user re-programming. For instance, in the above example where a pharmacist wants to change a prescription from one to two pills every eight hours, when a user obtains a refill for medication A, the pharmacist can simply change the specifying information on the container which can then be used to obtain new regimen information to be used by the reminder device. In the above example where a new medication Z is dispensed after a person starts using a reminder unit, the person can simply use the medication vial to set up the device to stat the reminder process.

For at least these reasons claim 1 and claims that depend there from are patentable over the cited references and Applicant respectfully requests that the current rejections be withdrawn.

Independent claim 155 has been amended in a fashion similar to the amendment to claim 1 discussed above and Applicant believes claim 155 is patentable for the same reasons that claim 1 is patentable and therefore requests that the current rejection of claim 155 and claims that depend there from be withdrawn.

6-8.   The Office Action rejected several claims that depend from claim 1. The claims that depend from claim 1 all include the same limitations that claim 1 includes and are believed to be patentable for the same reasons that claim 1 is patentable.

9-14.   The Office Action rejected each of claims 15, 22-28, 33 and 36 as obvious over Glynn in view of O'Brien and McIntosh. Claim 15 depends from claim 1 and should be patentable for the same reasons that claim 1 is patentable as discussed above.

Applicant has amended claim 22 in a fashion similar to the way in which claim 1 has been amended and believes that new claim 22 is patentable over the cited references for the same reasons that claim 1 is patentable as indicated above. More specifically, claim 22 now requires that dosing regimen information is not initially stored in a processor memory and that the processor obtain regimen information the first time using specifying information from the container specifying device. None of the three references cited teaches or suggests using specifying information from a container to access regimen information that was not previously stored in a memory accessible to a reminder device processor.

15-17. The Office Action rejected claim 29 as obvious over several references. Claim 29 depends from claim 22 and should be patentable for the same reasons that claim 22 is patentable as discussed above.

Applicant has added new claims 159 through 168 that are supported by the specification and include limitations that are not taught or suggested by the currently cited prior art.

Applicant has introduced no new matter in making the above amendments and antecedent basis exists in the specification and claims as originally filed for each amendment. In view of the above amendments and remarks, Applicant believes the pending claims of the present application recite patentable subject matter and allowance of the same is requested. No fee in addition to the fees already authorized in this and accompanying documentation is believed to be required to enter this amendment, however, if an additional fee is required, please charge Deposit Account No. 17-0055 in the amount of the fee.

Respectfully submitted,

CARLOS DE LA HUERGA

Date: 7-20-10

By: _____

Michael A. Jaskolski
Reg. No. 37,551
Attorney for Applicant
QUARLES & BRADY, LLP
411 East Wisconsin Avenue
Milwaukee, WI. 53202-4497
(414) 277-5711